

Response to Office Action
Serial No. 09/575,839

REMARKS

In the office action dated July 22, 2004, the Examiner rejected Claim 1 over U.S. Patent No. 6,006,264 to *Colby et al.* ("*Colby*") in view of U.S. Patent No. 6,591,298 to *Spicer et al.* ("*Spicer*"). *Colby* describes a method for routing content based on the proximity of a requesting client to a server by maintaining information about content flow characteristics, content locality, and server load and location in a Content Server Database. Column 3, lines 15-21, and column 6, lines 42-63. The Examiner contends that *Colby* teaches directing a network client to a content server based on communications between a client that is physically proximate to the network client and one or more of the plurality of content servers. Claim 1 has been amended to clarify that the claimed method requires directing a first network client to a content server based on a communication between a second network client and one or more of the plurality of content servers wherein the second network client is physically proximate to the first network client. *Colby* does not teach using cost measurements for a client that is physically proximate to the requesting client. The method of *Colby* considers only the proximity of the requesting client and the servers rather than the proximity of a second network client to a first network client, as required by the claimed invention.

The Examiner further notes that *Colby* does not teach using cost measurements that measure operational characteristics of the network and cites *Spicer* as teaching this claim element. *Spicer* discloses a method for measuring the performance of a website by measuring download times at locations and times similar to that of users accessing the same website. Column 1, lines 7-10 and lines 48-50. *Spicer* does not teach or suggest routing a content request from a first client using cost measurements for a second client that is physically proximate to first client.

Additionally, *Spicer* does not teach or suggest that the methods for evaluating site performance could be combined with the routing methods of *Colby*. It would not have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of *Colby* and *Spicer* to direct network traffic based on cost measurements that measure operational

Response to Office Action
Serial No. 09/575,839

characteristics of the network based on communications between a client that is physically proximate to the network client and one or more of the plurality of content servers. In fact, the teachings of *Colby* teach away from a combination with other routing methods because *Colby* describes handling a request outside of the system if there is no information available about the requesting client. The claimed invention on the other hand claims a method that can be used specifically in a situation where information about the requesting client is not available, by identifying information from a client that is physically proximate to the requesting client.

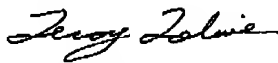
Even if the teachings of *Spicer and Colby* are combined—despite the lack of teaching or motivation to do so—the claimed invention is not obtained. Combining the teachings of *Spicer* with the teachings of *Colby* would result in a method for directing a network client to requested content based on an evaluation of the performance of a website measured by download times at various locations and times. The combination would not result in or suggest directing a first network client to one or more content servers using one or more cost measurements that measure operational characteristics of the network based on communications between a second client that is physically proximate to the first network client and one or more of the content servers.

Response to Office Action
Serial No. 09/575,839

CONCLUSION

It is believed that the foregoing amendments place the application in condition for allowance and a notice of allowance is respectfully requested. If there are any issues that can be resolved via a telephone conference, the Examiner is invited to contact the undersigned at 404-815-6483.

Respectfully submitted,



Leroy Toliver
Registration No. 50,409

Kilpatrick Stockton LLP
1100 Peachtree Street
Suite 2800
Atlanta, Georgia 30309
(404) 815-6500
KS File: 52224/296056